IN THE HIGH COURT OF BOMBAY AT GOA.

LETTERS PATENT APPEAL NO. 2 OF 2002.

Gurudas Balkrishna Pednekar
r/o 26A, Patto Govt. Colony,
Panaji, Goa. ... Appellant.

Versus

1. Presiding Officer,
   Industrial Tribunal,
   Junta House, Panaji.
2. Mr. V. Sardesai, General
   Manager, Navhind Papers
   Ltd., Navhind Bhavan,
   Panaji. ... Respondents.

Appellant in person.

Mr. M.S. Usgaonkar, Senior Advocate with Mr. Sudesh Usgaonkar, Advocate for the Respondent No. 2.

Coram: C.K. THAKKER, C.J. &
P.V. HARDAS, J.

Date: 1st April 2002.

ORAL ORDER (PER THAKKER, C.J.)

This appeal is filed against the Judgment and Order passed by the learned Single Judge, dated 26th June 2001, in Writ Petition No. 301 of 2000 as also against the Order in Civil Review Application No. 21 of 2001, dated August 16, 2001.

2. The appellant, who was serving with respondent no. 2, submitted his resignation, which was accepted by the respondent no. 2. The allegations of the appellant were that he had not submitted his resignation and the so called resignation was submitted by him under duress and coercion and it, therefore,

could not be accepted, treating the same as voluntary. The authorities under the labour Legislation came to the conclusion, by passing an award, that it was not proved by the appellant that the resignation was submitted by the appellant under duress. Accordingly, the case was decided against him. When the matter was carried in Writ Petition, the learned Single Judge, apart from the finding of fact arrived at by the Tribunal, observed in the Judgment thus:-

> "So far as the Award of the Hon'ble Presiding Officer is concerned, the same is a reasoned Order and taking into account the evidence as also the contentions or arguments raised on behalf of the petitioner, in view of the fact that the petitioner has not been able to establish <u>even at this stage</u> that the resignation was not voluntary, he has not produced any documents to support his contention that he had withdrawn his resignation" (emphasis supplied).

In view of the above finding, the petition was ordered to be dismissed.

3. When the Review Application was filed, another learned Single Judge considered the reasons recorded by the learned Single Judge and dismissed the Review Application.

4. We have heard Gurudas Balkrishna Pednekar, party in person. He submitted that the resignation was

not voluntary. He also submitted that, if this Court gives permission, he would produce relevant documents on record to show that the resignation was obtained by coercion and duress. He, therefore, submitted that it is an eminently fit case whereby the Judgment and Order of the learned Single Judge are liable to be quashed as also the Award made by the Tribunal.

5. In our opinion, whether or not a resignation is submitted by the appellant, is a pure question of fact. If in the facts and circumstances, the Tribunal recorded a finding that the resignation was voluntary and was not by coercion or by duress, in Writ Petition the learned Single Judge also arrived at same finding and again in a Review Application another learned Single Judge also agreed with the finding of the learned Single Judge, we see no reason to interfere with the same and the Letters Patent Appeal deserves to be dismissed and is, accordingly, dismissed.

6. The appellant/party in person makes an oral prayer to grant a certificate of fitness under Article 134A read with Article 133 of the Constitution of India. Article 134A states that at the time of making a judgment, decree or final order, a prayer may be made to grant necessary certificate to approach the Supreme

Court provided the two conditions are fulfilled; (i) that the case involves a substantial question of law of general importance and (ii) that the said question needs to be decided by the Supreme Court.

7. In our considered opinion, neither of the two questions arose in the instant case. The question does not refer even to a question of law, much less a substantial question of law of general importance, nor in our opinion, the said question needs to be decided by the Supreme Court, since the matter is actually decided on facts. Hence, certificate is refused.

(C.K. THAKKER)
CHIEF JUSTICE.

(P.V. HARDAS)
JUDGE.

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